IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

CRP.No. 783 of 2007()

OPEA.66/2002 of ADDL.D.C.,ALAPPUZHA.

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REVN. PETITIONER: IST RESPONDENT

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA,
KAYAMKULAM, REP. BY ITS MANAGING DIRECTOR.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENT: PETITIONER

KESAVA PILLAI, MANNAMPALLIL THEKKETHIL,
THAMARAKULAM KIZHAKKUM MURI,
THAMARAKULAM VILLAGE.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.783 of 2007

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Dated this the 6th day of December, 2007.

ORDER

This revision petition is preferred against the order of the Additional District Judge, Alappuzha in O.P.(E.A.) No.66 of 2002 whereby the court below ordered enhanced compensation of Rs.14,380/- with 6% interest. Respondent has not chosen to appear in spite of notice on the delay condonation application. Hence held sufficient service of notice.

2. Learned counsel for the revision petitioner brought to my notice that the court below has followed the dictum laid down by this Court in the decision reported in **Kumba Amma** v. **K.S.E.B.** - 2000(1) K.L.T. 542 whereby the annuity factor is taken at 5%. It is submitted by him that in the decision of the Apex Court reported in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T. 1, the matter requires reconsideration as each case has to be decided on the facts and circumstances of that case. The Apex Court held as follows:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or

> through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

In the light of the above principles, there is some force in the contentions of the revision petitioner and therefore the matter is to be reconsidered by the court below for the reason that it requires additional evidence of parties.

2. Therefore, the award under challenge is set aside and the matter is remitted back to the court below for fresh consideration and disposal after affording equal opportunities to both sides to adduce both documentary and oral evidence in support of their respective contentions. Parties are directed to appear before the court below on 18.1.2008.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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